

Ordinance No.: 15-63  
Zoning Text Amendment No: 05-20  
Concerning: Site Plans – Approval,  
Amendment and Enforcement  
Draft No. & Date: 9 2-28-06  
Introduced: November 29, 2005  
Public Hearing: January 17, 2006  
Adopted: February 28, 2006  
Effective: April 1, 2006

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

---

By: District Council

---

**AN AMENDMENT** to the Montgomery County Zoning Ordinance for the purpose of:  
Revising the process to approve, amend, and enforce site plans.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the County Code:

DIVISION 59-A-2 Definitions and interpretation  
Section 59-A-2.1 Definitions.  
DIVISION 59-D-1 Development Plan  
Section 59-D-1.2. Development plan general requirements.  
Section 59-D-1.8. Procedure for site plan approval.  
DIVISION 59-D-3 Site Plan  
Sections 59-D-3.0 through 59-D-~~[[3.8]]~~ 3.9  
DIVISION 59-D-4 Diagrammatic Plan  
Section 59-D-4.2. Diagrammatic plan: General requirements.  
DIVISION 59-H-2. Map Amendments-Applications.  
Section 59-H-2.53. Schematic development plan.

**EXPLANATION:** ***Boldface** indicates a heading or a defined term.*

*Underlining indicates text that is added to existing laws  
by the original text amendment.*

*~~[Single boldface brackets]~~ indicate text that is deleted from  
existing law by the original text amendment.*

*Double underlining indicates text that is added to the text  
amendment by amendment.*

*~~[[Double boldface brackets]]~~ indicate text that is deleted  
from the text amendment by amendment.*

*\* \* \* indicates existing law unaffected by the text amendment.*

## OPINION

Zoning Text Amendment (ZTA) No. 05-20 was introduced on November 29, 2005, to revise the process to approve, amend, and enforce site plans. This amendment was intended to respond to issues that the Office of Legislative Oversight noted in Office of Legislative Oversight Report #2006-3, *Fact-Finding Review of the Clarksburg Town Center Project*.

The Montgomery County Planning Board in its report to the Council recommended that the text amendment be approved with modifications.

The County Council held a public hearing on January 17, 2006, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development (PHED) Committee for review and recommendation.

The Committee held worksessions on January 30, January 31, February 2, and February 6, 2006, to review the amendment. The Committee unanimously recommended enactment of the amendment with further changes.

The District Council reviewed Zoning Text Amendment No. 05-20 at a meeting held on February 28, 2006, and supported the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 05-20 will be approved as revised.

## ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

**Sec. 1. Section 59-A-2.1 is amended as follows:**

**59-A-2.1. Definitions.**

In this Chapter, the following words and phrases have the meanings indicated:

\* \* \*

**Plan, site:** A detailed plan required in certain zones as the basis for the issuance of building permits.

**Plan, certified site:** A final document that incorporates all elements of the site plan approved by the Planning Board, including: (1) a project data table; (2) all necessary engineered drawings; (3) specific references to all agency approvals required by the Planning Board approval resolution; and (4) a complete copy of the approval resolution.

**Plan, public hearing site:** A site plan to be considered by the Planning Board that contains: (1) the applicant's proposed plan of development, including all final submittal requirements; (2) the applicant's proposed project data table; (3) specific references to all necessary agency approvals; (4) the Planning staff's recommendation, including draft findings of fact and conclusions of law; and (5) if the public hearing has already been held, all evidence presented at the hearing.

\* \* \*

**Planning Director:** The staff member in the Department of Park and Planning who is in charge of all planning, zoning, and land development approval activities of [[the]] that Department, and who reports directly to [[the Chair of]] the Planning Board.

\* \* \*

**Sec. 2. Sections 59-D-1.2 and 59-D-1.8 are amended as follows:**

**59-D-1.2. Development plan general requirements.**

(a) In order to assist in achieving the flexibility of the design needed for the implementation of the purposes of these zones, the applicant [[is

required to]] must submit a development plan as a part of the application for reclassification. A site plan that [[is consistent with]] conforms to all non-illustrative elements of the approved development plan must [[subsequently]] later be approved [[in accordance with the requirements of]] under Division 59-D-3 [[prior to the issuance of]] before any building permit is issued.

(b) A copy of the development plan must be submitted to the Planning Board; the applicant may be required to submit additional copies for review by other government agencies and the public.

(c) The District Council [[may]] must not grant reclassification to any of these zones until it has received the Planning Board's recommendation on the development plan. The development plan must satisfy the stated purposes of the applicable zone.

(d) The fact that a development plan complies with all of the stated general regulations, development standards, or other specific requirements of the zone does not, by itself, create a presumption that the proposed development would be desirable, and is not sufficient to require the approval of the development plan or the granting of the application.

#### **59-D-1.8. Procedure for site plan approval.**

A site plan [[or site plans consistent with]] that conforms to all non-illustrative elements of the approved development plan must be submitted and approved [[in accordance with the provisions of]] under Division 59-D-3.

**Sec. [[2]] 3. DIVISION 59-D-3 is amended as follows:**

**DIVISION 59-D-3. Site plan.**

**59-D-3.0. Generally.**

In [the zones] any zone identified in Article 59-C as requiring site plan approval, [no] the Department must not issue a sediment control permit, [and no] building permit, or use-and-occupancy permit for [the construction or use of] any building or structure [may be issued];

(a) until the Planning Board approves a site plan [is approved], and

(b) unless [it is in accordance with an] the building or structure conforms to the approved site plan.

**59-D-3.1. Requirements.**

**59-D-3.1.1. Ownership; identity of applicant.**

(a) [The] Each proposed site plan must be filed with the Planning Board[; it]. A proposed site plan may cover all or any part of a lot or tract[, and].

(b) An application for site plan approval may be filed only by one or more persons with a financial, contractual, or proprietary interest in the property where the development would be located.

(c) If any land or right-of-way is owned or controlled by the State, the County, or another political subdivision or government entity, including the Washington Metropolitan Area Transit Authority ("WMATA"), a person who otherwise qualifies under subsection (b) may apply for site plan approval for development on that land if the application includes a final agency agreement or other written authorization from the government entity authorizing the person to include the public land or right-of-way in the application.

(d) If a property is located entirely in an area designated as an urban renewal area under Chapter 56, the landowner, a contract purchaser, or another legal entity or individual holding a legal interest in the land, in whole or in part, may file a site plan application that includes

any other property that is also located entirely in the same urban renewal area.

**59-D-3.1.2. Conformity with previous actions.**

Each proposed site plan must meet the following requirements:

- (a) If the land is classified in a zone that requires a development plan, the site plan must [be consistent with] conform to all non-illustrative elements of the approved development plan.
- (b) If the site plan is for land classified under Section 59-H-2.5, [title "Contents of Optional Method of Application-Local Map Amendments,"] the site plan must [be consistent with] conform to each binding element of the approved schematic development plan[, development program,] [[and each recorded covenant]].
- (c) If the site plan is for the optional method of development in a [[CBD Zone]] zone that requires a project plan, [it] the site plan must [be consistent with] [[conform to]] be consistent with a project plan approved under Division 59-D-2.
- (d) If the site plan is for land classified in the MXN Zone, [it] the site plan must [be consistent with] conform to a diagrammatic plan approved [in accordance with] under Division D-4.
- (e) If the site plan does not cover the entire lot or tract or the entire area included in any [of the plans] plan cited in the preceding paragraphs, [it] the site plan must show how it is related to and coordinated with other site plans either approved, under consideration, or yet to be submitted.
- [(f) An overlay zone must specify the required elements of the site plan, and the site plan must be consistent with all standards and regulations of the overlay zone.]

**59-D-3.2. Contents of proposed site plan.**

[The] Each proposed site plan must include the following, with all [of the] maps [being] drawn at a consistent scale:

**59-D-3.21. Subdivision plan information.**

The information required for the submission of a preliminary subdivision plan[, as set forth in] under Chapter 50. [An application for site plan approval must be filed with the planning board by a person with a financial, contractual, or proprietary interest in the property. If land or rights-of-way is owned or controlled by the State of Maryland, the county, or other political subdivision, government entity or agency, or the Washington Metropolitan Area Transit Authority ("WMATA"), a person may file an application for the land if the application includes an agency agreement or other written authorization from the government entity, agency or WMATA authorizing the person to include the public land or rights-of-way as part of the application. If a property lies entirely in an area designated as an urban renewal area under Chapter 56 the landowner, contract purchaser, a legal entity, or individual holding legal interest, whether in whole or in part, may file a site plan application that may include any other property also located entirely in the urban renewal area.]

\* \* \*

**59-D-3.23. Proposed development.**

A plan of the proposed development, including [[but not limited to]] the following information unless [[waived by]] the Planning Director waives any item at the time of application as [[being]] unnecessary because of the limited scope of the proposal:

\* \* \*

- (p) Verification that the applicant has posted notice on the property, notified affected parties, and held a pre-submittal meeting with the public, as required by Planning Board regulations.

\* \* \*

**59-D-3.3. [Reserved] Zoning certification.**

- (a) If any part of the land included in the proposed site plan is classified under a zone that was applied [[under]] through a local map amendment which included a development plan, diagrammatic plan, or schematic development plan that the District Council approved, the applicant must submit a sworn statement[[, signed by the applicant or its counsel,]] certifying that the proposed site plan conforms to [[all binding representations made to]] all non-illustrative elements of the development plan or diagrammatic plan, or all binding elements of the schematic development plan, approved by the District Council during the local map amendment process[[, including representations about type of use, density, building height, floor area ratio, setbacks, landscaping and parking, as well any other element on which the District Council expressly relied in reaching its decision]].

- (b) This certification does not relieve the Planning Board of its duty to independently determine that the proposed site plan [[is consistent with]] conforms to all non-illustrative elements of any applicable development or diagrammatic plan or [[the binding elements of any applicable]] all binding elements of any schematic development plan.

**59-D-3.4. Action by Planning Board.**

- (a) [A] The Planning Board[[, or a hearing officer designated by the Board,]] must hold a duly noticed public hearing [must be held by the Planning Board] on each site plan application. The Planning Board



must [[approve, approve [subject to modifications] with amendments,  
 or disapprove]] take final action on the proposed site plan not later  
 than 45 days after [receipt of the site plan] receiving the application,  
unless the applicant agrees to extend the time for Board action, [[,  
 but]] However, [such action and notification is not required] the  
Planning Board need not act before [the approval of] a preliminary  
 plan of subdivision involving the same property is approved. The  
 Planning Board [then] must notify the applicant and all other parties  
of record in writing of its action.

- (b) [[The site plan approved by the Planning Board must be a single  
document which controls what the applicant may build on the  
specified site. The Planning Board must specify all applicable  
conditions and requirements in the approved site plan. When the site  
plan is approved by the Planning Board, it must contain all applicable  
data, maps, drawings, and other information. The Planning Board's  
opinion (when an opinion is legally required) is part of the approved  
site plan, has no separate legal effect, and must briefly describe the  
Board's findings and conclusions. The approved site plan must not  
incorporate any other document by reference.]]

The Planning Board must consider each public hearing site plan after  
holding the hearing required under subsection (a), and at the same or a  
later meeting must by resolution approve, approve with conditions, or  
disapprove the proposed site plan. The Planning Board resolution  
must contain:

- (1) all necessary findings of fact and conclusions of law;
- (2) all applicable conditions and requirements of site plan approval,  
if the plan is approved; and

187           (3) all applicable data, maps, drawings and other information.

188           The Planning Board may adopt regulations that allow an applicant to  
 189           submit certain required engineered drawings after the Board acts on  
 190           the site plan and prescribe the notice and approval process that applies  
 191           before those drawings may be incorporated into a certified site plan.  
 192           The certified site plan must control what the applicant may build on  
 193           the specified site.

194           (c) In reaching its decision the Planning Board must [determine whether]  
 195           require that:

196           (1) the site plan [is consistent with] conforms to [[an approved]] all  
 197           non-illustrative elements of a development plan or  
 198           diagrammatic plan, and all binding elements of a schematic  
 199           development plan, certified by the Hearing Examiner under  
 200           Section 59-D-1.64, or [[a]] is consistent with an approved  
 201           project plan for the optional method of development, if  
 202           required, unless the Planning Board expressly modifies any  
 203           element of the project plan;

204           (2) the site plan meets all of the requirements of the zone in which  
 205           it is located, and where applicable [is consistent with] conforms  
 206           to an urban renewal plan approved under Chapter 56[.];

207           (3) the locations of [the] buildings and structures, [the] open  
 208           spaces, [the] landscaping, recreation facilities, and [the]  
 209           pedestrian and vehicular circulation systems are adequate, safe,  
 210           and efficient;

211           (4) each structure and use is compatible with other uses and other  
 212           site plans, and with existing and proposed adjacent  
 213           development; and

(5) the site plan meets all applicable requirements of Chapter 22A regarding forest conservation, [and] Chapter 19 regarding water resource protection, and any other applicable law.

[(b)] (d) The Planning Board [shall] must not approve the proposed site plan if it finds that the proposed development would not achieve a maximum of compatibility, safety, efficiency and attractiveness[; and the]. The fact that a proposed site plan [complies] may comply with all [of the stated general regulations,] applicable development standards or other specific requirements of the applicable zone [shall] does not, by itself, [be deemed to] create a presumption that the proposed site plan is, in fact, compatible with surrounding land uses and, in itself, [shall] is not [be] sufficient to require [approval of] the Planning Board to approve the proposed site plan.

[(e)] In the resolution approving a site plan, the Planning Board may expressly designate:

(1) certain elements of the plan as [[binding]] essential elements that must not be modified [[without]] except by a plan amendment approved by the Planning Board under Section 59-D-3.7; and

(2) other elements as guidelines that will have minimal effect on the overall design, layout, quality, or intent of the plan, and which may be modified by minor plan amendments under Section 59-D-3.7[(c)(6)] unless the Planning Director recommends that any specific modification be treated as a major plan amendment.]]

[(c)] (f) [[Upon approval]] After final Planning Board action, the site plan approval resolution must be:

(1) [Signed by the applicant agreeing to execute all the features and requirements that are part of the site plan;

(2)] Signed by the [[Chairman of the]] Planning Board Chair, or [his] the Board's designee, certifying Planning Board approval of the site plan; and

[(3)] (2) Forwarded to the Department for reference in issuing building permits under Section 59-D-3.5.

[[g)] When a hearing officer is designated to conduct a hearing under this Division, the officer must forward a written report, with a recommendation for decision, to the Planning Board, including findings of fact and conclusions of law where required or appropriate.]]

**59-D-3.5. Effect of site plan.**

(a) In the case of any land in a zone requiring site plan approval[, as provided in article 59-C,] or any special exception for which site plan approval is a condition, [as provided in sections 59-A-4.22 and 59-G-1.22(b),] the Planning Board must not approve a record plat [required by chapter 50 of this Code, title "Subdivision of Land,"] [[must not be approved]] unless [it is in strict compliance] the plat strictly [[complies with a]] conforms to the certified site plan [[approved]] [as provided by this division 59-D-3] [[by the Planning Board]].

(b) [No] A sediment control permit, building permit, or use-and-occupancy permit [may] must not be issued unless [it is in strict compliance] each strictly complies with [[an approved]] a certified site plan.

(c) All [the] requirements and features that are part of the [[approved]] certified site plan must be [[executed]] implemented [in accordance

with] as specified in the [applicant's] development program required  
by section 59-D-3.23(m), as modified by the Planning Board in the  
[[approved]] certified site plan or at any later time.

- (d) [[If any part of an approved site plan conflicts with any previously  
approved project, urban renewal, or preliminary subdivision plan, the  
site plan governs.]] [[In any conflict between 2 or more provisions of  
an approved site plan, the most rigorous provision governs.]]

[[e)]] [A] The Planning Board may require the applicant to post a  
performance bond securing compliance with and full [[execution]]  
implementation of all features of the certified site plan [may be  
required to be posted with the Planning Board] in an amount  
[established] set by the Planning Board. [In such cases, no] If a bond  
is required, the Department must not issue a sediment control permit,  
building permit, or use-and-occupancy permit [may be issued] until  
this bond is posted.

**59-D-3.6. Failure to comply.**

- (a) If the Planning Board finds [[reason to conclude]], [[for any site plan  
approved under this Section,]] on its own motion or after a complaint  
is filed with the Planning Board or the Department, and after giving  
due notice to the applicant, the complainant, and all parties previously  
before the Board on this plan and holding a public hearing or  
receiving a report of a public hearing held by a designated hearing  
officer, that any [of the terms, conditions or restrictions upon which]  
term, condition, or restriction in [[the]] [site] a certified site plan [was  
approved are] is not being complied with, the Planning Board[[, after  
due notice to the applicant and all other parties concerned and a public

hearing held by the Planning Board or a hearing officer designated by the Board,] may:

(1) impose a civil fine or penalty authorized by Section 50-41;

(2) suspend or revoke [its approval of the] the site plan; [[or]]

(3) approve a [plan of] compliance program which would permit the applicant to take corrective action to comply with the certified site plan;

(4) allow the applicant to propose modifications to the certified site plan, or

(5) take any combination of these actions.

(b) If at the end of the [term of the plan] effective period of [[the]] any compliance program approved by the Planning Board, the Planning Board finds that the applicant has not taken sufficient corrective action [has not taken place to cause compliance], the Planning Board may without holding further hearings revoke [its approval of] the site plan or take other action necessary to ensure compliance, including imposing civil fines, penalties, stop work orders, and corrective orders under [[Chapter 50]] Section 50-41. The Planning Board may [request and] obtain investigations and reports as to compliance from appropriate County or State agencies.

(c) [Upon decision by the Planning Board to revoke approval of] If the Planning Board suspends or revokes a site plan, the Department must immediately suspend any applicable building [permits and] permit under which construction has not been completed, or withhold any applicable use-and-occupancy [permits issued pursuant to a prior Planning Board approval are hereby declared invalid] permit, until the

320 Planning Board reinstates the site plan or approves a new site plan for  
 321 the development.

322 **59-D-3.7. Amendment of a site plan.**

323 [A major plan amendment or minor plan amendment is defined as set forth  
 324 in Sec. 59-D-2.6.]

325 (a) The owner of the property to which [[an approved]] a certified site  
 326 plan applies[[, the Director, or the Planning Director,]] may apply at  
 327 any time for an amendment to [[an approved site]] the plan. Each  
 328 application [[for an amendment]] must show every proposed  
 329 amendment, in a format approved by the Planning Board, on a copy of  
 330 the [[approved]] certified site plan. The amendment process required  
 331 in this Section is the only way [[an approved]] a certified site plan  
 332 may be [[changed]] modified.

333 (b) The Planning Board may approve any proposed site plan  
 334 amendment[[, other than a minor site plan amendment as defined  
 335 under subsection (c).]] after [[giving the applicant and any other  
 336 affected person an opportunity for]] holding a public hearing, except  
 337 as provided in subsection (c) [[before the Planning Board or a hearing  
 338 officer designated by the Board]]. [[The Planning Director, but not  
 339 any other member of the Planning staff, may approve a minor site  
 340 plan amendment as provided in this Section.]]

341 [[c)] A minor amendment is a site plan amendment that would only:

- 342 (1) increase or decrease the height, setback, or gross floor area of a  
 343 building by no more than 5 percent;
- 344 (2) increase or decrease the land area covered by a structure other  
 345 than a building by no more than 5 percent;

(3) redesign a parking or loading area in a way that does not significantly affect any neighboring property;

(4) redesign a landscape plan in a way that does not alter basic elements of the plan or significantly affect any public area or neighboring property;

(5) approve any modification required by engineering necessity in grading, utilities, stormwater management, or any similar plan element, in a way that does not significantly affect any public area or neighboring property; or

(6) modify any other plan element that the Planning Board, in approving that site plan, designated as an element that will have minimal effect on the overall design, layout, quality, or intent of the plan.]]

(c) [[The Planning Board must adopt regulations that define which site plan amendments may be treated as minor amendments under this Section.]]

[[d)] Along with any other notice required by the Planning Board's rules of procedure, the]] The applicant must post a conspicuous notice of each proposed [[minor]] amendment within 3 days after filing the application with the Planning Director at one or more places [[designated]] and in a form and content approved by the Planning Director. The applicant also must send written or electronic notice, in a form and content approved by the Planning Director, within 3 days after filing the application, to:

(1) each person who received notice of the hearing that the Planning Board held before the site plan was approved;



(2) the owner and (if known or reasonably identifiable by the applicant) any contract purchaser of each adjoining and confronting property; and

(3) each registered civic organization in the area of the property, as determined by the Planning Director.

If a person to whom notice was sent under this subsection, or any other affected person as defined by Planning Board regulations, has not filed a written or electronic request for a public hearing [[is not filed]] within [[10]] 15 days after the notice is [[posted]] sent, the Planning [[Director]] Board may act on the [[minor]] amendment without holding a hearing. [[The Planning Director must forward each minor amendment to the Department immediately after approving it.]]

[[e)] Before approving a minor amendment, the Planning Director must make any finding that the Planning Board would be required to make if it reviewed the amendment. In approving a minor amendment, the Planning Director must not waive any requirement of law (unless the law otherwise allows the Planning Board to waive that requirement [[to be waived]]) or modify any condition or requirement expressly imposed by the Planning Board when it approved the site plan. The Planning Director must forward each minor amendment to the Planning Board and the Department immediately after approving it.]]

[[f)] If the Planning Director declines to approve a minor amendment or any [[affected]] person who is eligible to do so under subsection (d) files a timely request for a public hearing, the Planning Director must forward the amendment to the Planning Board for review under its

procedures for amendment approval unless the applicant withdraws the amendment.]]

~~[[g]]~~ (d) The Planning Board Chair or the Board's designee must sign any  
[[amendment to]] Board resolution that amends [[an approved]] a  
certified site plan [[that the Planning Board approves]]. The Chair  
must forward each approved amendment to the Department  
immediately after signing it.

**59-D-3.8. Validity.**

(a) The [initiation date for commencing the validity] period during which  
[time] a site plan [must be validated,] is effective [is] starts on the  
later of:

(1) 30 days [from the date of mailing of the written opinion, as  
such date is printed on the opinion] after the Planning Board  
Chair or a designee [[notifies]] mails the Board resolution  
approving the plan to the applicant and other parties of record  
[[that the Chair has signed the plan]]; or

(2) [in the event] if an administrative appeal is timely noted by any  
party who has standing [authorized] to [take an] appeal, the date  
[upon which] when the court having final jurisdiction acts,  
including the running of any further applicable appeal  
[[periods]] period.

(b) The [validity] effective period of [[an approved]] a certified site plan  
[is conditionally tied to] depends on the expiration date of the  
underlying approved preliminary plan. The site plan [will validate  
upon the recordation of] takes effect when the final record plat is  
recorded for all of the property [delineated on] covered by the  
approved preliminary plan. Where phasing of development is

[contemplated] required, [validation of phases will be treated in the same manner] each phase takes effect as provided in the preliminary plan. [Upon recordation of] After the record plat is recorded, the ~~[[approved]]~~ certified site plan [will] does not expire or require amendment [prior to the issuance of] before a building permit is issued unless:

- (1) the project's ~~[[APFO approval]]~~ determination of adequate public facilities made under Section 50-35(k) expires; or
- (2) changes to the applicable zoning map, [or] zoning text, or other applicable laws or regulations require [a modification of] the ~~[[approved]]~~ certified site plan to be modified.

[The forgoing] This subsection does not preclude an applicant from seeking an amendment to ~~[[an approved]]~~ a certified site plan to address minor changes to the applicable zoning map, zoning text, or other applicable laws or regulations. In [such instances] that case, the ~~[[approved]]~~ certified site plan [will not be deemed to have expired] remains in effect.

- (c) [Extensions.] If [an extension is approved for the] a preliminary subdivision plan is extended, then the certified site plan [will] must remain [valid to the extent that] in effect as long as the preliminary plan remains [valid] in effect.

### **59-D-3.9 Regulations.**

Any regulation adopted by the Planning Board to implement this Division is subject to District Council review and disapproval as if the regulation were submitted to the County Council under method 2 of Section 2A-15.

**Sec. 4. Section 59-D-4.2 is amended as follows:**

**59-D-4.2. Diagrammatic plan: General requirements.**

- (a) In order to assist in achieving the flexibility of development and design needed for the implementation of the MXN Zone, the applicant must submit a diagrammatic plan as part of the application for reclassification.
- (b) A site plan or site plans ~~[[consistent with]]~~ that conforms to the approved diagrammatic plan must ~~[[subsequently]]~~ later be approved ~~[[in accordance with the requirements of]]~~ under Division 59-D-3 ~~[[prior to the issuance of]]~~ before any building permit is issued.
- (c) The applicant may be required to submit additional copies of the proposed diagrammatic plan for review by other government agencies.
- (d) The diagrammatic plan must satisfy in general terms the stated purposes of the zone, but the fact that the diagrammatic plan complies with all of the stated regulations, development standards or other requirements of the zone does not, by itself, create a presumption that the proposed Mixed Use Neighborhood would be desirable, and is not sufficient to require approval of the diagrammatic plan or the granting of the application.

**Sec. 5. Section 59-H-2.53 is amended as follows:**

**59-H-2.53. Schematic development plan.**

In addition to the other requirements contained in this Article, the application for the optional method must include a schematic development plan which adheres to the following requirements:

\* \* \*

- (h) The site plan required by ~~[[article 59-D]]~~ Division 59-D-3 must ~~[[be in conformance with]]~~ conform to the schematic development plan approved by the District Council.

\* \* \*

**Sec. ~~[[3]]~~ 6. Effective Date.**

~~[[This]]~~ Except as provided in this Section, this ordinance takes effect on ~~[[March]]~~ April 1, 2006. Sections 59-D-3.1, 59-D-3.2, and 59-D-3.4, as amended by this ordinance, apply to any site plan that the Planning Board approves on or after ~~[[that date]]~~ April 1, 2006. Sections 59-D-3.23 and 59-D-3.3, as amended by this ordinance, apply to any site plan for which an application is filed with the Planning Board on or after May 1, 2006. Sections 59-D-3.0, 59-D-3.5, 59-D-3.6, 59-D-3.7, and 59-D-3.8, as amended by this ordinance, apply to all site plans approved at any time before or after ~~[[that date]]~~ April 1, 2006.

**Sec. 7. Interim Guidelines.**

Notwithstanding Section 59-D-3.9, inserted by this ordinance, until July 1, 2006, the Planning Board may adopt and rely on interim guidelines that are not submitted to the District Council, rather than regulations, to implement any provision of Division 59-D, as amended by this ordinance. If the District Council has not acted by July 1, 2006, on any regulation submitted by the Planning Board before June 1, 2006, under this provision, any interim guideline which that regulation would replace may continue in effect until the District Council acts on that regulation.

This is a correct copy of Council action.

3/3/06

Linda M. Lauer, Clerk of the Council

Date